Calendar No. 141

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-86

EXTENDING THE NOISE CONTROL ACT

MAY 16, 1983.—Ordered to be printed

Mr. DURENBERGER, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1280]

The Committee on Environment and Public Works, reports an original bill (S. 1280), to extend the Noise Control Act of 1972 and recommends that the bill do pass.

GENERAL STATEMENT

The Congress enacted the Noise Control Act in 1972, authorizing the Federal Government to establish and enforce noise emission standards for products generally and railroads and motor carriers in particular. Until this enactment, noise control was within the virtually exclusive province of State and local governments.

In 1974 noise emission regulations were issued for interstate motor carriers. Regulations for new medium and heavy trucks were issued in 1976 and for newly manufactured garbage trucks in 1979. Standards for new motorcycles were issued in December 1980, to be phased in over a 3 to 5 year period. As of January 1981, however, the only emissions standards actually in effect were those which had been issued in 1974, and those essentially incorporated then-current emissions levels rather than mandating actual reductions.

Although the Federal law was intended to complement State and local regulation, a 1977 decision held the act to be preemptive. In *American Association of Railroads* v. *Costle* (562 F. 2d 1310), the court construed the Noise Control Act as embodying a congressional intention to preempt State and local regulation of railroad noise. Although the case was restricted on its facts only to railroad noise regulation, the language of the decision seemed to make it clear that the same rule would apply in other areas as well (e.g., cars, trucks, motorcycles, air-conditioners, jackhammers, etc.). Thus, the decision

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had the effect of chilling all State and local regulation of noise emissions.

The reach of the court's decision was made clear in 1978 when the city of Dover, Del., sought to pass an ordinance regulating the manner in which rail cars were switched during the early morning. The city council decision was prompted by numerous complaints from neighborhood residents that switching was taking place as early as 3 a.m.

In the absence of the *AAR* v. *Costle* decision construing the Noise Control Act as preemptive, the city's ordinances have been a legitimate exercise of the State's police powers. But a Federal district court held the city's authority had been preempted by the Noise Control Act and was therefore illegal. Thus, those seeking protection from noise were left with only one protector; namely, the Federal Government.

In early 1981, sentiment began building in the Congress and the public for reductions in Federal spending. One area targeted by the administration as appropriate was the Noise Control Act. In the budget justification submitted by the new administration, its policy toward noise regulation was explained as follows:

> In 1982 we are revising our policy with respect to the Federal effort to reduce noise exposure. We plan to phase out the EPA noise control program by the end of 1982. This decision results from our determination that the benefits of noise control are highly localized and that the function of noise control can be adequately carried out at the State and local level without the presence of a Federal program.
>
> In both 1981 and 1982, activities are being structured to achieve a prompt but orderly phase-out of current program activities. This will be done in such a way so as to transfer the knowledge and experience EPA has gained to the State and local programs. This orderly phase-out of present activities is essential if we are to facilitate an effective assumption of noise control responsibilities by State and local noise programs.

The Committee on Environment and Public Works concurred in this position and approved the requested savings in the Noise Control Act's implementation. To free the hands of State and local governments to assume the responsibility being abandoned by the Federal Government, however, the committee also agreed to seek a repeal of the decision in *AAR* v. *Costle*, the Noise Control Act, or both.

Pursuant to the commitment, the committee reported and, in July 1981, the Senate approved, a bill to amend the Noise Control Act. The committee's proposal was vigorously resisted by an array of interest groups who sought to maintain the existing law with its preemptive effects. Those who expressed opposition to the proposal included manufacturers of motorcycles, light and heavy duty vehicles, and air-conditioners as well as the railroads.

Since the initial budget decisions of 1981, the regulatory program under the Noise Control Act has been eliminated. However, neither

the *AAR* v. *Costle* decision nor the Noise Control Act have been repealed.

The committee remains committed to partial or complete repeal of either the *AAR* v. *Costle* decision or the Noise Control Act. However, it is committed to an overriding obligation to assure that a program to regulate noise exists at least at one level of government. To preserve that option, the committee has reported a bill to authorize $10 million for the revival of the regulatory program established under the Noise Control Act.

Hearings

No hearings have been held on this bill. The committee may hold hearings this year to explore the need for additional substantive amendments.

Rollcall Votes

No rollcall votes were taken during consideration of this bill. The bill was ordered reported on May 10, 1983, by unanimous voice vote.

Evaluation of Regulatory Impact

In compliance with section 11(b)(1) of the rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact of the reported bill.

The bill does not authorize any new regulatory programs. It does, however, restore funding for the development and enforcement of noise emission standards and other controls under the Noise Control Act. Thus, to the extent that funds are appropriated, the bill will have an as yet unquantified regulatory impact.

Cost of Legislation

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 11, 1983.

Hon Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for the Noise Control Act Reauthorization of 1983.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.

Congressional Budget Office—Cost Estimate

May 11, 1983.

1. Bill number: Not yet assigned.
2. Bill title: Noise Control Act Reauthorization of 1983.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, May 10, 1983.
4. Bill purpose: The bill authorizes the appropriation of $10 million for fiscal year 1984 to carry out the provisions of the Noise Control Act of 1972. No funds were requested for 1984 by the President, and no funds have been appropriated to date for 1983.
5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1984	$10.0
1985	-----
1986	-----
1987	-----
1988	-----
Estimated outlays:	
Fiscal year:	
1984	7.5
1985	2.0
1986	.5
1987	-----
1988	-----

The costs of this bill fall within budget function 300.

Basis of estimate: The authorization level is that stated in the bill. For purposes of this estimate, it was assumed that the full amount authorized will be appropriated prior to the start of fiscal year 1984. Outlays were estimated based on previous spending patterns for this program.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Anne E. Hoffman (226–2860).
10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

Changes in Existing Law

In the opinion of the committee, it is necessary to dispense with the requirement of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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Calendar No. 142

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-87

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1984 FOR THE TOXIC SUBSTANCES CONTROL ACT

MAY 16, 1983.—Ordered to be printed

Mr. DURENBERGER, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1281]

The Committee on Environment and Public Works, reports an original bill (S. 1281), to amend the Toxic Substances Control Act to authorize appropriations for fiscal year 1984 and recommends that the bill do pass.

GENERAL STATEMENT

The Toxic Substances Control Act provides the Environmental Protection Agency with several mechanisms to minimize the risk to human health and the environment presented by toxic chemical substances. The Act mandates a program of premanufacture notice and risk assessment and gives the Environmental Protection Agency authority to restrict the entry of new chemicals into the marketplace pending development of data regarding the risk they may pose to human health and the environment. Broad authority is provided as well for the identification and control of toxic chemicals already in commerce and for coordination with other chemical regulatory programs.

The cornerstone of the toxics program is the Premanufacture Notification (PMN) process which enables EPA to evaluate new chemicals and require additional testing or data as necessary before a chemical is manufactured. The number of new chemicals that must be reviewed is determined by the pace of research and development in the chemical industry. At this time, the number of premanufacture notices submitted to the Environmental Protection Agency is continuing to increase and the Agency projects that a higher percentage of notices will warrant a more resource-intensive, detailed risk assessment. In

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addition, the Agency projects an increase in the number of new chemicals that will be subject to various regulatory actions.

The pace of activity associated with regulation of existing chemicals is increasing as well. Screening systems now are largely in place and more resources will be needed for risk assessments and regulation of chemicals that present an unreasonable risk of injury to health or the environment.

In addition, adequate resources are needed to develop testing requirements for chemicals recommended by the Interagency Testing Committee.

In summary, toxic substances control activities aimed at reducing or preventing injury from toxic chemicals are increasing in several program areas. Therefore, the Committee approved an authorization substantially larger than that sought by the Administration to assure that adequate personnel and funding are provided these programs.

Summary of the Bill

The Committee recommends that the Toxic Substances Control Act be reauthorized for one year, through fiscalyear 1984. It further recommends that $66,500,000 be authorized to be expended for carrying out the purposes of this Act as follows:

Sec. 28(d)	$1,500,000
Sec. 29	65,000,000
Total	66,500,000

Section 28 of the law authorizes grants to the States for "programs to prevent or eliminate unreasonable risk within the States to health or the environment which are associated with a chemical substance or mixture. * * *" As the last Congress sought to achieve savings in the Federal budget, funds for section 28 grants were eliminated. However, it has become increasingly apparent that several States are faced with toxic substance threats to which the Administrator cannot or is unlikely to respond. Therefore, to assist the States in their efforts to deal with these problems, the Committee approved an authorization of $1,500,000 for State grants under section 28.

As to the remainder of the Act, the Committees considered it imprudent to reduce funding at a time when the workload is sharply increasing as to both old and new chemicals. Once marketed, toxic chemicals become such an inseparable part of the fabric of society that remedial action becomes so expensive and difficult as to approach impossibility. It was to avoid repetition of past mistakes like PCB's and asbestos that the new chemicals program was established. Therefore, the Committee approved an authorization level roughly equal to actual 1982 levels, indexed by a 5 percent inflation rate. This should help the Agency respond to demands of the ITC testing program as well as the PMN review process.

Hearings

No hearings were held on this bill. It is anticipated that hearings will be conducted later this year to consider additional changes which may be required to amend the Act.

Rollcall Votes

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

There were no rollcall votes taken, the bill was ordered reported by voice vote.

Evaluation of Regulatory Impact

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires the committee to evaluate the regulatory impact of the reported bill.

It is not anticipated that this bill will impose any significant new regulatory burden.

Cost of Legislation

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 13, 1983.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a bill to amend the Toxic Substances Control Act to authorize appropriations for fiscal year 1984.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

James Blum
(For Alice M. Rivlin, Director).

Congressional Budget Office Cost Estimate

1. Bill number: Not yet assigned.
2. Bill title: A bill to amend the Toxic Substances Control Act to authorize appropriations for fiscal year 1984.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, May 10, 1983.
4. Bill purpose: The bill authorizes the appropriation of $65 million for the Environmental Protection Agency (EPA) to implement the provisions of the Toxic Substances Control Act for fiscal year 1984. The bill also authorizes $1.5 million to be appropriated in 1984 for grants to states to mitigate risks to health and the environment not addressed by the EPA.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1984	$66.5
1985	-----
1986	-----
1987	-----
1988	-----
Estimated outlays:	
Fiscal year:	
1984	41.5
1985	15.0
1986	6.6
1987	3.4
1988	-----

The costs of this bill fall within budget function 300.

Basis of estimate: For purposes of this estimate, the full amount authorized by the bill is assumed to be appropriated by the start of fiscal year 1984. Outlays were estimated based on information from EPA and historical spending patterns for this program.

6. Estimated cost to state and local governments: Under the provisions of this bill, states would receive $1.5 million in grants, with no matching requirements. The costs of administering the grant program are not expected to be significant.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Anne E. Hoffman.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

Changes in Existing Law

In the opinion of the committee, it is necessary to dispense with the requirement of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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